WHEDco
Building A Greater Bronx

February 16, 2021

Federal Reserve Board
Via email: regs.comments@federalreserve.gov

Re: Comments on Federal Reserve CRA ANPR: Docket Number R-1723 and RIN Number 7100-AF94

To Whom It May Concern,

My name is Davon Russell, President of The Women's Housing and Economic Development Corporation (WHEDco), which serves more than 40,000 community members in the Bronx and across New York City each year. I am writing this letter in response to the Federal Reserve Board's ("Board") Advanced Notice of Proposed Rulemaking (ANPR) proposal to reform the Community Reinvestment Act ("CRA") rules.

WHEDco is a community development organization founded on the radically simple idea that all people deserve to live in healthy, vibrant communities. ***We work in the South Bronx in storied communities that are still recovering from decades of arson and disinvestment caused by redlining, a federal policy that began in the 1930s.*** **The Bronx's majority population of Black, Indigenous, People of Color (BIPOC) has been further devastated by the ongoing COVID19 pandemic: early on, Bronx residents were dying from the disease at twice the rate of New York City, and the Bronx economy has taken the hardest hit given the preponderance of industries and jobs shut down or restricted because of NYS public health guidelines**.[1]

Within this context, WHEDco carries out its mission to give our Bronx communities access to all the resources that create thriving neighborhoods – from sustainable, affordable homes, high-quality early education and after-school programs, to fresh, healthy food, cultural programming, and economic opportunity. We do this work with partners, including the citywide Association for Neighborhood Housing Development (ANHD), the United Neighborhood Houses (UNH), the national Closing The Women's Wealth Gap (CWWG) collaborative, and the Bronx-Wide Plan Coalition for racial justice and economic democracy.

We truly appreciate the Board's interest in strengthening the CRA so that banks can better meet the credit needs of low-income communities and communities of color in New York City and throughout the state and country. We work with banks daily to manage our $20+ million organizational budget, including paying nearly 300 mostly BIPOC staff, running myriad community programs to address food insecurity, the digital divide among students we serve, and other growing needs, and procuring goods and services locally. We remain deeply concerned by the negative impact that inadequate banking reinvestment continues to have on our communities of color, fomenting the very inequities that the CRA was created to eliminate. For example, **the Bronx has the lowest concentration of bank branches per**

[1] https://www.thecity.nyc/bronx/2020/11/29/21725453/bronx-inequality-racism-covid-hunger-health-jobs-housing

household in the country.[2] ***Yet, at the height of the pandemic when community members and small businesses have been at the greatest need for convenient, affordable, accessible services, three banks closed their doors and a fourth delayed an already prolonged reopening with no notice to its customers***.

We thus very much appreciate that the Board refused to join the Office of the Comptroller of the Currency ("OCC") in finalizing their CRA rules. The OCC ignored public comments and rushed through a harmful rule that should it survive, will lead to less reinvestment, and to reinvestment that is less responsive to community needs. We commend the board for putting forth a more thoughtful, data driven process that identifies important objectives, such as more effectively meeting the needs of Low and Moderate Income (LMI) communities and addressing inequities in credit, promoting community engagement, and recognizing that CRA and fair lending responsibilities are mutually reinforcing.

We believe that CRA reform must incorporate the following key principles:

1. **That Quality, Quantity, and Impact of Bank Activities are important components of CRA.**
    - The CRA should never have been color-blind and must have an affirmative obligation to serve people and communities of color with responsive, impactful activities.
    - Banks must be evaluated on the quantity and quality of their CRA activities such as: retail lending, community development finance, branches, banking products, and services.There must be downgrades for harmful behavior, including products, practices, and patterns of lending that lead to harassment, displacement, high costs, and harm.
2. **That Community Input and Community Needs must be at the heart of the CRA.**
    - Community input must be woven into the CRA process at all levels, including the performance context and needs assessment; evaluation of bank performance; and additional areas where CRA is taken into account, such as branch closures, mergers and acquisitions, and other applications.
3. **That CRA Assessment areas must Maintain Place-based Local Obligations.**
    - Maintain assessment areas where banks have branches/ATMs, and expand to other areas where banks also do considerable business, such as lending and taking deposits
    - Any assessment area reform must increase the size of the pie: maintain or increase quality reinvestment where it is needed within large cities like New York City, while also directing capital to under-banked regions.

PRINCIPLE #1

Evaluate banks on the <u>quantity, quality and impact</u> of their activities within the communities they serve to ensure they benefit historically redlined communities: low- and moderate-income and Black, Indigenous, and People of Color (BIPOC). The CRA should incentivize high-quality, responsive, impactful activities and make downgrades for activities that cause displacement and harm.

[2] Ratcliffe, Caroline, Signe-Mary McKernan, Emma Kalish, and Steven Martin, "Where Are The Unbanked And Underbanked in New York City?" The Urban Institute (September 2015) https://www.urban.org/sites/default/files/publication/71511/2000430-Where-Are-the-Unbanked-and-Underbanked-in-New-York-City.pdf

The CRA Should Never Have Been Color-Blind.

We appreciate the Board's recognition that the CRA and fair lending responsibilities are mutually reinforcing, and for asking how the CRA can better serve people of color. As incorporated in each section below, and throughout all three priorities, we believe that banks must have an affirmative obligation to serve people and communities of color with responsive, impactful activities. Redlining, discrimination, and racial disparities in lending, banking, wealth, and income have long persisted in this country, and continue to this day. As the Board recognizes, it was the reason for the CRA in the first place, and yet the CRA has never evaluated banks on how well they serve people and communities of color. Banks must have an affirmative obligation to serve BIPOC and communities.

Responsible Multifamily Lending - In Evaluating Quantity and Quality, the CRA Should -Downgrade for Harm and Displacement.

New York City is a city of renters; nearly two-thirds of New Yorkers rent their homes. Multifamily lending in New York City is particularly critical for banks and regulators to understand, given the unique housing stock here and its importance to affordable housing and protections for millions of New Yorkers. Access to credit is critical to maintaining this stock of housing in the City, especially in lower-income neighborhoods, like those in the Bronx.

Too many low-income people, immigrants, and people of color we serve still lack sufficient access to loans to purchase homes and improve their homes. ***Mission-driven nonprofits like WHEDco struggle to access grants and loans to build and preserve much-needed deep and permanent affordable housing, support community development, and provide the housing stability that these communities need.*** In a 2018 survey we conducted in Crotona East/Morrisania[3], a historically-redlined South Bronx community where we work, the need for affordable housing to rent or own was stark. **Fifteen percent (15%) of Black households and 18% of Hispanic households in the NY region are completely unbanked, which is over 5 times the rate of white households**. It is even higher in the South Bronx. **More than 24% of respondents in the community WHEDco surveyed indicated that they are unbanked**. Meanwhile, many low-income tenants and tenants of color are being harassed and displaced when banks lend to unscrupulous landlords. Of those who rent who we surveyed, nearly 30% indicated that their landlord harasses them or neglects doing repairs in their apartment. Further, more than half (54.1%) is severely rent-burdened as they pay more than half of their monthly income on rent.

The importance of financing deeply and permanently affordable housing in communities of color in the Bronx has been made even more apparent since the COVID19 pandemic, with rising tenant harassment, job losses, lower rent collection, and economic shocks contributing to greater housing instability for tenants and greater operational constraints for less resourced, mission-driven, nonprofit landlords like WHEDco. Responsible multifamily lending is therefore integral to housing stability, and especially in emergencies.

Equally important to the volume of lending on these and all sources of housing, if not more so, is that the loans are underwritten responsibly.

---

[3] Crotona Park East/Morrisania Community Needs Assessment Summary of Findings, May 2019, WHEDco. http://www.bit.ly/crotonafindings

Multifamily mortgage lending is a business line for many banks, as is the case for 1-4 family lending, small business lending and others. Multifamily lending should be evaluated under the retail test.

First, evaluate all multifamily loans under a set of metrics, such as lending in LMI tracts, different loan purposes, range of building sizes, and how many units are affordable to low- and moderate-income residents. Metrics like these can give an idea as to how equitably the bank is lending to see if they are reaching a range of neighborhoods, rental levels, and building types.

Second, incorporate a robust qualitative assessment to determine if the rating should stay the same, upgrade or downgrade. Give credit for deep and permanent affordability, subsidized affordable housing, and loans to mission-driven developers. Banks should also get credit for committing and adhering to multifamily anti-displacement best practices in all forms of housing, subsidized and unsubsidized. Downgrade banks for lending to landlords who harass or displace tenants, and/or keep buildings in poor conditions.

Best practices for multifamily lending include:

- **Responsible underwriting. Underwrite to current in-place rents and realistic maintenance costs**. For rent-stabilized buildings, we recommend a DSCR of at least 1.2X[4]. In all cases, there should be no provisions that increase rent burden and displace tenants, be it through rent increases or reduced maintenance and services.
- **Appropriate vetting of borrowers**. Use all available resources to lend to responsible landlords who properly maintain the stock of rent-regulated and affordable housing and respect the rights of tenants. This includes consulting news reports and public lists; monitoring loan conditions, lawsuits, violations, and fines; and consulting with tenants and tenant organizers.
- **Responding to issues in buildings:** Create a formal process to work with tenants and organizers to respond when problems arise in buildings they finance.

Banks should also get credit for transferring distressed properties to responsible mission driven developers, rather than selling the debt, or supporting the building being sold, to the highest bidder that is only seeking to make a profit. This will be especially important post COVID.

The CRA Should Prioritize How Well Banks Respond to Small Businesses' Lending and Support Needs.

We support the Board's proposal to evaluate borrower and distribution metrics and have a separate qualitative analysis, with the possibility of additional credit for responsive products and practices. There must also be downgrades for harm.

Fewer than four of 10 small businesses in the Bronx accessed the forgivable federal PPP loans being administered by banks in their communities.[5] There is a high need for low-cost, flexible loans, especially through CDFIs, to match the needs (language, loan size, and terms) of the small neighborhood businesses we serve.

[4] DSCR = Debt Service Coverage Ratio. It refers to the income required to pay the mortgage. DSCR < 1.0 means that the landlord does not have sufficient income to pay debt payments each month. Thus, a DSCR of 1.2 means the landlord has more than enough income to pay the debt, and less incentive to raise rents or reduce costs.

[5] https://citylimits.org/2020/09/17/amid-unemployment-and-restrictions-latino-businesses-struggle/

The exam must evaluate and **prioritize small loans to very small businesses, BIPOC-owned businesses, and lending in underserved communitie**s. This can be done by looking at low- and moderate-income communities separately; categories of loan size and business size; lending by race/ethnicity of owner and in communities of color; originations vs purchases. As data is available, regulators should also evaluate loan types separately (credit cards serve a purpose but aren't as impactful or in has high demand as traditional loans and lines of credit).

The qualitative analysis would evaluate the products and practices the bank has implemented to achieve metrics in a meaningful way. Banks that prioritize larger businesses, bypass immigrant communities or borrowers of color, or rely only on credit card loans should be downgraded. Banks that demonstrate responsive products and practices should get positive credit.

Regulators can evaluate how well banks support small businesses in other areas of the CRA as well, such as loans and investments in CDFIs or MDIs identified as meaningfully serving BIPOC, low-income, and immigrant communities; supporting technical assistance; and providing direct grants to small businesses (by the bank or through a nonprofit). Regulators can also evaluate how banks responded to COVID, and who they served, with grants, loans like the Paycheck Protection Program and others, debt relief, and more.

1-4-Family Lending - The CRA Should Prioritize How Well Banks Improve Access to and Preserve Homeownership.

We support the Board's proposal to evaluate borrower and distribution metrics and a separate qualitative analysis, with credit for responsive products and practices. ***Only about eight percent (8.4%) of respondents we surveyed in one of our South Bronx neighborhoods own their own home: over nine of 10 respondents rent, leaving many of them and their families at risk of displacement***. We therefore support opportunities that banks provide to affordably and creatively finance homeownership among Black and Brown residents we serve. Here in the Bronx, many options have been piloted, proven, and/or explored, from the traditional one- to four-family housing to cooperative housing and even community land trusts. To close the racial wealth gap, prevent displacement spurred by speculation and irresponsible bank lending, and stabilize BIPOC communities economically, we support lending that supports homeownership for Bronx families.

There must also therefore be downgrades for harm. The exam must evaluate and **prioritize lower-income people and BIPOC to achieve and maintain homeownership**: low- and moderate-income people and communities separately; lending by race/ethnicity; originations vs purchases (prioritize originations); investor vs owner-occupied (prioritize owner-occupied); loan types and purposes separately, connected to local needs.

The qualitative analysis would evaluate the products and practices the bank has implemented to achieve metrics in a meaningful way. Banks should be evaluated on their COVID response, such as forbearance with no lump sums, loan modifications, and loan forgiveness. Also, banks should get credit for affordable CRA products that they marketed and originate to LMI borrowers and BIPOC, including products requested by local communities. Banks should also be downgraded for indications of disparate pricing, harmful products, neglect, or displacement.

Regulators can evaluate how well banks support homeownership in other areas of the CRA as well, such as financing the **construction or preservation of affordable homeownership**, including limited equity coops; grants for **housing counseling and financial education**, staff to provide financial education or homebuyer classes; and **foreclosure prevention**.

Consumer Lending - The CRA Should Rate More Highly Banks That Offer Low-Cost Loan Products.
Similar metrics for consumer lending makes sense. Quality is more important than volume in this category. Large quantities of high-cost credit cards or other high-cost loans are not helpful, and banks should not be incentivized to increase that volume. ***Further, according to the NYC's Office of Financial Empowerment, there is acute student loan debt distress in the Bronx, with the highest rate of borrowers in collections, and with fewer than half completing their degree even seven years after starting their studies***.[6] Our communities are better served when banks offer lower-cost and smaller loans with flexible terms in order to bridge their customers' financing needs.

Community Development Finance – The CRA Should Prioritize LIHTC And Other Community-Supporting Investments and Grants.
We support a comprehensive community development finance test. **However, within that test, regulators must evaluate loans and investments separately to maintain the requirement to make investments.** This is especially important to WHEDco's work in the communities we serve as an affordable housing developer and owner of nearly 600 LIHTC units, and as a provider of technical assistance to hundreds of small BIPOC- and women-owned businesses in the Bronx that need access to CDFI funds. The high concentration of banks and a strong CRA obligation through the investment test have ensured banks compete for and make LIHTC investments in New York City and elsewhere. These can be complicated deals and provide a critical source of financing for affordable housing. The CRA must incentivize LIHTC and a broad range of other investments, including NMTC, EQ2, CRA-eligible grants, and more. ***Lastly, we appreciate the attention to long-term patient capital, which can be challenging to obtain given the short-term cycle of CRA Exams***. However, the final rules must also incentivize new activity each year and cycle by evaluating outstanding and new activity.

We support both a quantity and quality metric. For loans and investments, dollars are important, but equally important is the impact of that activity. The Board must be careful not to drive banks to make the largest, simplest deals possible to meet a quantitative metric. The quality score should be broader than a scale of 1 to 3, and should prioritize impactful activities as determined by local communities, with a strong emphasis on mission-driven nonprofit entities. Many of these activities may be small by comparison, but the dollars will have a larger impact.
For example:

- Housing developed by mission driven developers; deep affordable housing for homeless populations, and very low-income people living below 20%, 30%, and 40% AMI; permanent affordability that doesn't expire in 30-40 years; supportive housing; and more.
- Creation and preservation of quality jobs for BIPOC and LMI people, and not simply low-wage jobs with no path upwards
- Grants, loans and investments in mission-driven CDFIs and MDIs that support and lend to very small businesses and BIPOC-owned businesses, as well as others that lend on affordable housing

[6] https://www1.nyc.gov/assets/dca/downloads/pdf/partners/Research-StudentLoanDebtDistressAcrossNYCNeighborhoods.pdf

and further economic development. Grants to community-based organizations that provide financial education, housing counseling, tenant supports, small business support.
- Additional activities with mission-driven entities and community-based organizations for community services, such as childcare, healthcare, and financial education
- Support for organizing and policy work that will benefit LMI and BIPOC populations.
- As in all sections**, banks should be downgraded for harm or displacement**. This includes higher-cost products and practices; loans to problematic developers; business with entities that foster displacement; and more. Strong community engagement can mitigate this.

Branches/Access to Banking – The CRA Should Factor Highly The Impact of Branch Locations and Services, Especially in BIPOC Communities.

Cruel recent bank closures in our three South Bronx neighborhoods have left thousands of mostly immigrant and BIPOC small business owners who have been valiantly working to adapt, re-hire workers, and provide vital goods and services, without the accessible banking and lending services they need to recover. Equally bereft are the thousands of community members, including seniors, who rely on their local branch to have the convenient access needed to safely and effectively manage their resources. Further, too many Bronx families do not have the access to technology, know-how and resources needed to easily and safely transition to the online banking services being touted as a replacement. This is a clear disadvantage to BIPOC communities that puts their financial health and well-being even further at risk in an already challenging time.

We therefore support the Board's framework for evaluating branches. The Federal Reserve put forth a comprehensive analysis of bank branch locations, impact of branches opened and closed, products and practices. In addition to factors in the ANPR, regulators should consider branches in communities of color; branches in unbanked and underbanked neighborhoods (at the census tract or neighborhood level); access for immigrants; and efforts to bring people into mainstream banking.

Unbanked and underbanked communities, predominantly LMI and communities of color have been asking for branches and affordable, accessible services for decades to no avail; the need is only exacerbated as branches close and banks direct people to online services. Banks must provide all their service equitably: physical branches, online banking, and the products offered in both spaces. They must also invest in staff, education, and outreach to underserved populations, on their own and in partnership with local organizations.

PRINCIPLE #2

Community Input and Community Needs must be at the heart of the CRA.

We support the Board's goal for CRA reform to promote community engagement. However, there is little detail in the ANPR to achieve that goal. In our experience, banks with community advisory boards and other mechanisms to engage with the community are more responsive in their CRA products and practices. Such processes have led to CRA plans informed by community needs, strengthened relationships with community organizations, and led to the creation of new products and practices. However, overall, few people know about the CRA process, and it is likely not the people most impacted by a bank's activities. Community input must be woven into all aspects of the CRA exam process.

- **Performance context and community needs:** In addition to gathering demographic and statistical data, regulators must conduct proactive outreach and consult research centered on

LMI and BIPOC communities to identify local needs and evaluate how well banks are meeting those needs. This needs to be a representative sample by geography, populations served, and area of focus. Regulators should also collaborate with community organizations to incorporate feedback from residents throughout the assessment areas.

- **Bank evaluation:** Regulators should have a similar process to gather feedback on individual banks. They should ensure the public knows about bank exams and engage in proactive outreach to solicit feedback. A similar process can be implemented at the time of mergers, branch openings/closings, and other applications that connect to CRA.

Banks should be evaluated on their community engagement. Banks must also be evaluated on how well they engage community organizations and residents in developing their CRA plans and implementation.

PRINCIPLE #3

CRA Assessment Areas must maintain Place-based, Local Obligations.

New York City has many different neighborhoods and a wide variation in race, economic status and other measures of diversity. Banking access is similarly varied and too often unequal. The CRA is therefore, rendered ineffective in affirming good, community-reinvesting banking practices when there is a too-broad assessment area that hides the banking inequities residents confront daily. **The Bronx has the lowest concentration of bank branches per household in the country, and the largest concentration of unbanked households in New York City**.[7] There is clearly more to be done to strengthen and further the CRA's impact. A place-based, local assessment area gets to the heart of preserving the core of the CRA and addressing its glaring shortcomings.

We appreciate the ANPR maintains branch-based assessment areas. ATM-based areas should remain obligatory, not optional. We oppose national assessment areas for internet banks. And for other banks, we oppose any area larger than an MSA; again, even an assessment areas of New York City's five counties is often too large to meet the many and diverse needs throughout. Related, we appreciate that the proposal seeks to direct capital to underserved areas outside of traditional assessment areas, but as it stands today, low-income, BIPOC neighborhoods are persistently neglected within assessment areas, as is the case in New York City. Too often, when investment comes in, it is for larger scale developments that fuel displacement, rather than for bank branches, affordable bank accounts, small home and small business loans, or other activities that local communities need. The CRA must maintain and strengthen a place-based, local commitment to partnering with and meeting the needs of the populations the CRA was meant to serve: LMI people and communities and people and communities of color.

Additional Points

In addition to the points above, we urge you to advocate for an interagency approach so that all banks are held to the same standards. ***No CRA should allow 96% of banks to pass their exam in the face of persistent disparities, unmet banking and credit needs, high-cost products, and patterns of lending that foster displacement***. Further, regulators must preserve the "low" and "high" satisfactory ratings,

[7] Ratcliffe, Caroline, Signe-Mary McKernan, Emma Kalish, and Steven Martin, "Where Are The Unbanked And Underbanked in New York City?" *The Urban Institute* (September 2015) https://www.urban.org/sites/default/files/publication/71511/2000430-Where-Are-the-Unbanked-and-Underbanked-in-New-York-City.pdf

and not combine the two in any part of the CRA; this allows a distinction between banks that are barely meeting needs and others that are doing more. Banks should be evaluated at the holding company level and evaluated on the totality of their lending, including by affiliates. They should also be held accountable for the problematic practices of entities with which they do business, such as through formal referrals and partnerships. Additional data will be very useful for communities to evaluate bank performance. CRA Strategic Plan requirements must be strengthened by requiring more transparency regarding planning, groups outreached to, comments submitted, and bank responses, at a minimum.

Conclusion

WHEDco is a BIPOC-led nonprofit community development organization that is on the front lines of addressing historic and systemic racial biases that have caused housing and economic instability, banking disinvestment, federal government-led redlining, and predatory and extractive practices in the Black and Brown communities we serve in the Bronx. The impact of this reality has been even more shamefully evident since the 2020 COVID-19 pandemic: ***Bronx residents not only have had to fight to stay alive as the frontline workers and first responders serving the City, but have faced undue financial and economic insecurity, exacerbated by banks' unchecked abandonment and disinvestment during the crisis***. Low- and moderate-income and BIPOC communities like those where we live and serve, deserve equal access to affordable, accessible banking and credit; safe, affordable housing; quality jobs; and community services. The CRA must be preserved and strengthened with a robust analysis of quality and quantity; incorporating community input, and keeping a strong local commitment.

On behalf of the 1.4 million Bronxites who enrich this city and this nation, thank you for attending to our comments. Please contact me at 718-839-1100 or community@whedco.org if you have any questions.

Sincerely,

Davon A. Russell

Davon Russell, President
WHEDco, 50 E. 168th Street, Bronx, NY 10452
www.whedco.org